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William Sapone
Coleman Sudol Sapone PC
714 Colorado Ave
Bridgeport, CT 06605

In re Application of
BOYD et al. :
U.S. Application No. 10/593,910 : DECISION ON PETITION TO
PCT No.: PCT/US05/09970 : REVIVE ABANDONED
Int. Filing Date: 23 March 2005 : APPLICATION UNDER 37 CFR
Priority Date: 24 March 2004 : 1.137(b) AND PETITION UNDER
Attorney Docket No.: AV 34 : 37 CFR 1.497(d) TO CORRECT
For: THIAZOLIUMS AS TRANSKETOLASE : INVENTORSHIP
INHIBITORS

This decision is issued in response to the Petition For Revival under 37 CFR 1.137(b) and the request for correction of inventorship under 37 CFR 1.497(d) filed 15 December 2008.

BACKGROUND

On 23 March 2005, applicants filed international application PCT/US05/09970 which claimed a priority date of 24 March 2004. The published international application identified one applicant/inventor, Steven Boyd. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire 30 months from the priority date, 24 September 2006.

On 22 September 2006, applicants filed a transmittal letter for entry into the national stage accompanied by, *inter alia*: the requisite basic national fee; a copy of the international application; a preliminary amendment; and an application data sheet.

On 10 April 2008, the United States Designated/Elected Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 10 June 2008, applicant filed a declaration executed by: Steven A. Boyd; Kevin R. Condroski; Jason De Meese; Stephen S. Gonzales; Indrani W. Gunawardana; Tomas Kaplan; Yvan Le Huerou; Joseph Lyssikatos; Todd T. Rumoff; Francis X. Sullivan; and Allen Thomas.

On 14 October 2008, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the declaration was defective because the declaration named inventors not identified on the international application.

On 15 December 2008, applicants filed a Petition to Revive Abandoned Application under 37 CFR 1.137(b) and Petition under 37 CFR 1.497(d) to Correct Inventorship.

DISCUSSION

Applicants request to add Kevin R. Condroski; Jason De Meese; Stephen S. Gonzales; Indrani W. Gunawardana; Tomas Kaplan; Yvan Le Huerou; Joseph Lyssikatos; Todd T. Rumoff; Francis X. Sullivan; and Allen Thomas as applicants/inventors. In order to correct an error in naming the inventor(s) made during the international stage in the national stage, a request under 37 CFR 1.497(d) or a showing that a 92bis change was made prior to the National stage filing is required. In the instant case, a Notification of the Recording of a Change (Form PCT/IB/306) has been forwarded by the International Bureau indicating that Kevin R. Condroski; Jason De Meese; Stephen S. Gonzales; Indrani W. Gunawardana; Tomas Kaplan; Yvan Le Huerou; Joseph Lyssikatos; Todd T. Rumoff; Francis X. Sullivan; and Allen Thomas have been added as an applicants/inventors prior to entering into the national stage in the United States of America.

Therefore, the declaration submitted on 10 June 2008 executed by: Steven A. Boyd; Kevin R. Condroski; Jason De Meese; Stephen S. Gonzales; Indrani W. Gunawardana; Tomas Kaplan; Yvan Le Huerou; Joseph Lyssikatos; Todd T. Rumoff; Francis X. Sullivan; and Allen Thomas is accepted.

In view of the above, the Notification of Defective Response (Form PCT/DO/EO/916) dated 14 October 2008 is hereby VACATED and the abandonment has been withdrawn.

CONCLUSION

For the reasons discussed above, applicants' petition under 37 CFR 1.497(d) is DISMISSED as moot. Additionally, the Petition For Revival under 37 CFR 1.137(b) is DISMISSED as moot.

The petition fee(s) submitted on 15 December 2008 have been refunded to counsel's Deposit Account no. 04-0838.

In view of the declaration filed 10 June 2008, the Notification of Defective Response (Form PCT/DO/EO/916) dated 14 October 2008 is hereby VACATED and the abandonment has been withdrawn.

The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.



Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459